

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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TYRRELL JONES EILAND,  
Plaintiff,

vs.

JASON R. FOHS, et al.,  
Defendants.

Case No. 2:20-cv-02011-JCM-VCF

**Report and Recommendation for Dismissal**

Complaint (ECF No. 5)

This Court previously granted pro se plaintiff Tyrrell Jones Eiland's application to proceed *in forma pauperis* (ECF No. 1) but dismissed his complaint (ECF No. 1-1) without prejudice (ECF No. 4). The Court found that Jones Eiland's complaint was not plausible on its face. (ECF No. 4 at 4). The Court found that although Jones Eiland's complaint is styled as a civil rights complaint he did not plausibly allege that the defendants acted under color of law. (*Id.*)

The Court ordered that plaintiff's complaint be docketed (ECF No. 5) and gave plaintiff until Monday, January 4, 2021 to file an amended complaint. (ECF No. 4 at 6). The Court's order also noted that, "[f]ailure to timely file an amended complaint that addresses the deficiencies noted in this order may result in a recommendation for dismissal with prejudice." (*Id.*) Plaintiff has not, to date, filed an amended complaint or an objection. For all the reasons discussed in the Court's order at ECF No. 4, the Court recommends that plaintiff's complaint be dismissed.

ACCORDINGLY,

IT IS RECOMMENDED that this action be DISMISSED and Judgment entered, accordingly.

**NOTICE**

Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and

1 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk  
2 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal  
3 may determine that an appeal has been waived due to the failure to file objections within the specified  
4 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file  
5 objections within the specified time and (2) failure to properly address and brief the objectionable issues  
6 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the  
7 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*  
8 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Pursuant to LR IA 3-1, the plaintiff must immediately file  
9 written notification with the court of any change of address. The notification must include proof of  
10 service upon each opposing party's attorney, or upon the opposing party if the party is unrepresented by  
11 counsel. Failure to comply with this rule may result in dismissal of the action.

12  
13 IT IS SO ORDERED.

14 DATED this 6th day of January 2021.



15  
16 CAM FERENBACH  
UNITED STATES MAGISTRATE JUDGE